

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

CRIMINAL NO. 05-10001-WGY

UNITED STATES

v.

GREGORY R. WRIGHT

**AFFIDAVIT OF COUNSEL IN SUPPORT OF
DEFENDANT'S MOTION FOR COURT ORDER
DIRECTING PRODUCTION OF RECORDS BY THE
BOSTON POLICE DEPARTMENT**

I, Michelle Menken, being duly sworn according to law, do hereby state and depose as follows:

1. I am a member in good standing of the Bar of this Court and an associate at the law firm of Rankin & Sultan. I make this affidavit upon personal knowledge.
2. On May 17, 2005, I was advised by the Boston Police Department that the Boston Police units involved in the defendant's arrest may have used Mobile Data Terminals (MDT's) inside their police vehicles to gather intelligence about the defendant, his companions, or the car he was in, before, during, or after the arrest. I was advised that MDT activity reports could be requested through the Boston Police Department's Office of the Legal Advisor.
3. On the same date, I faxed a written request for pertinent MDT activity reports to the

Boston Police Department's Office of the Legal Advisor.

4. On June 1, 2005, I spoke by telephone with Narteecca Mitchell, a representative of the Office of the Legal Advisor, to learn the status of that request. Ms. Mitchell reported that on May 24, her office had sent requests to a number of departments within the Boston Police Department in order to obtain the requested records. She advised that her office had not yet gotten any response, and that there was no way to know when any response would be forthcoming. Her office would not take any action to expedite the process, or even to ensure that a response would be forthcoming at all. I asked Ms. Mitchell to write me a letter to that effect. On June 6, 2005, I received a responsive letter from Ms. Mitchell. It was erroneously dated May 31, 2005. That letter is attached hereto as Exhibit 1.
5. On June 2, 2005, I caused a subpoena to be served on the Boston Police Department's Office of the Legal Advisor, commanding production of the pertinent MDT activity reports by June 10, 2005, at 2:00 p.m.
6. On June 6, 2005, this office received a letter from Catherine L. Teahan, a paralegal for the Boston Police Department's Office of the Legal Advisor, advising that her office would not produce the subpoenaed documents without a court order. That letter is attached hereto as Exhibit 2.

Signed and sworn to under the pains and penalties of perjury this 7th day of June, 2005.

/s/

Michelle Menken, BBO No. 644537



1 Schroeder Plaza, Boston, MA 02120-2014

May 31, 2005

Michelle Menken
Frank and Sultan
One Commercial Wharf North
Boston, MA 02110

Re: Freedom of Information Act Request

Dear Ms. Menken:

You have requested documents in the possession, custody or control of the Boston Police Department under the Freedom of Information Act (FOIA).

As per our telephone conversation, the records you seek regarding Gregory Wright have been requested from various departments within the Boston Police Department. We wait to hear from them and as soon as we receive the requested information or a response, we will forward it to you or contact you with the estimated cost, if applicable.

Please be advised that this office does not provide legal assistance, opinions or explanations about police policy to the public, and will not respond to any such request.

Sincerely,

Office of the Legal Advisor
Narteeca Mitchell
617-343-4550


EXHIBIT 1



D E P A R T M E N T

1 Schroeder Plaza, Boston, MA 02120-2014

June 3, 2005

Charles W. Rankin, Esq.
Rankin & Sultan
One Commercial Wharf North
Boston, MA 02110

RE: U.S. v. Gregory Wright
U.S. District Court Case No. 1:05 – CR – 10001 - WGY

Dear Mr. Rankin:

I am writing in response to the attached subpoena served upon the Boston Police Department in connection with the above referenced criminal matter. Pursuant to Mass. R. Crim. P. 14, records pertaining to a pending criminal case must be sought through the U. S. Attorney's Office. See also Mass. R. Crim. P. 17 (a)(2). The rules of criminal procedure were not intended to be circumvented by subpoenas for records served upon the Boston Police Department. Accordingly, the Department can neither provide these records directly to you nor send a representative without a court order.

Sincerely,

A handwritten signature in cursive script, reading "Catherine L. Teahan".

Catherine L. Teahan
Paralegal
Office of the Legal Advisor
(617) 343-4550

EXHIBIT 2

UNITED STATES DISTRICT COURT

DISTRICT OF

MASSACHUSETTS

UNITED STATES

V.

GREGORY WRIGHT

SUBPOENA IN A
CRIMINAL CASE

Case Number: 1:05 - CR - 10001 - WGY

TO: Keeper of the Records
 Boston Police Department
 One Schroeder Plaza
 Boston, MA 02120
 Attn: Norteecca, Office of the Legal Advisor

- ☒ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below, or any subsequent place, date and time set by the court, to testify in the above referenced case. This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

PLACE

United States District Court, District of Massachusetts
 John Joseph Moakley United States Courthouse
 One Courthouse Way
 Boston, MA 02210

COURTROOM

#18, 5th Floor

DATE AND TIME

6/10/2005 2:00 pm.

- ☒ YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

Records of any and all Mobile Data Terminal (MDT) activity relative to the arrest of Gregory Wright on 11/08/04 (cc no. 040608531), including, but not limited to, printouts of pertinent MDT activity in the following units between the hours of 19:00 and 21:00 (7:00 to 9:00 p.m.) on 11/08/04: the VK04; VK09; VK02; and VK08. The suspect vehicle was a 2002 Olsmobile Alero, MA registration 4812WP. The individual suspects were: Gregory Wright, d.o.b. 3/28/1979; David Foy (vehicle operator); and Omar Edwards, d.o.b. 10/28/1978.

SARAH A. THORNTON

U.S. MAGISTRATE JUDGE OR CLERK OF COURT

Marie Bell

(By) Deputy Clerk

DATE

June 2, 2005

ATTORNEY'S NAME, ADDRESS AND PHONE NUMBER:

Charles W. Rankin and Michelle Menken
 Rankin & Sultan, One Commercial Wharf North, Boston, MA 02110
 617-720-0011